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Associate Members of this Section (those who are not members of the State Bar of California) should send notices to the attention of Carol Banks, International Law Section.



CHAIR'S LETTER

1997 promises to be an eventful and exciting year for the International Law Section! We have a number of special events calendared which should provide our Members not only with educational opportunities to improve the quality of their respective practices, but also with participatory opportunities to become more personally involved in the Section and acquainted with many of the other Section members. So, get your 1997 calendars out and save the following important dates!

Coming up first -- and directed especially to our law student Members in the Southland -- is our Third Annual "Careers in International Law" symposium. This year, the Southern California program is being hosted by the UCLA School of Law on Friday, January 31, 1997, from 12 noon to 2:00 p.m. As with past programs, admission is free and the program will feature experienced international legal practitioners from a variety of backgrounds, i.e., corporate, big firm, small firm, government, etc. We anticipate scheduling a similar Northern California program later in the Spring.

For all of our Members with Mexico, NAFTA, and Latin America inclinations, we have a great educational program scheduled for Thursday, February 27, 1997, in San Diego, from 7:30 to 10:30 a.m., entitled "Enforcement of Contracts in Mexico: Litigation, Arbitration & Bonding." Ably chaired by John McNeece, this program should provide a wealth of useful information for anyone representing either Mexican clients or domestic clients doing business in Mexico.

A one-of-a-kind retreat opportunity for all members is coming up on March 14-16, 1997, as our Section puts on the State Bar's first ever "Stress Busters' Weekend." Designed by Susan Leibeler, this event will be held at The Palms Resort in Palm Springs, and is a chance to combine the important business aspects of networking with other Members of the Section and the education aspects of earning some of those harder-to-get MCLE credits -- and all while enjoying the relaxing benefits of a premier spa. Bring your spouse or significant other along and "reduce a little stress" with us.

The State Bar as a whole will be trying out a wonderful venue this year when it hosts its annual Spring Education Institute at the Squaw Creek Resort in Lake Tahoe on May 16-18, 1997. As always, our Section will contribute to the many different programs put on by the other Sections by sponsoring a series of education seminars at the Institute which emphasize a variety of international legal issues.

On August 1-2, 1997, our Section will hold its Ninth Annual International Law Weekend in conjunction with the American Bar Association's Annual Meeting (August 1-5). This should provide a marvelous opportunity for our Section Members to rub shoulders with the International Law & Practice Section of the ABA as both of our groups cooperate to bring a concentrated does of international expertise to the City by the Bay this summer. In addition, we again look forward to joining hands for this same event with the 100+ foreign legal practitioners who will be visiting at that same time as part of U.C. Davis' Law in the U.S.A. Program. Our program co-chairs, Rob Cox and Steve Smith, are busy working out many of the details of these program, and we are confident that this will be the signature event for our Section in 1997.

Additional programs from our Section will follow later in 1997 at the State Bar's Annual Meeting (September 11-14, 1997 in San Diego) and at the Fall Section Education Institute (November 14-16, 1997 at the Del

Coronado Resort), as they are put on in conjunction with other State Bar programs.

Finally, our Section is tremendously excited about our innovative Teleseminar MCLE programs. These programs -- which will be held at varying times throughout the year -- allow any of our Members the luxury of dialing in to an interactive telephonic seminar featuring luminary speakers from around the country -- all from the convenience of the Member's desk, home, car, or whatever phone location they choose. Headed up by Grant Barnes, our Section plans to put on Teleseminars with a wide variety of speakers discussing a panoply of topics. Aside from the convenient advantages these Teleseminars provide, this systems also allows our Section to book speakers whose schedules or locations would otherwise never permit them to travel to us in California.

I look forward to any invigorating year for our Section, and to the chance to meet and work with many more of our Section members than before. Please support our Section in as many ways as your schedule in 1997 will allow, and let me or any of the other officers or members of the Executive Committee know if you have any suggestions or comments -- all of which are gratefully encouraged.

Jeff Shields



FOR STUDENT MEMBERS ...

CAREERS IN INTERNATIONAL LAW

Friday, January 31, 1997 12 noon to 2:00 p.m. UCLA School of Law

Admission is free and is open to all California students.

This program will feature experienced international legal practitioners from a variety of backgrounds, i.e., corporate, big firm, small firm, government, etc.



RONALD H. BROWN INTERNATIONAL Writing Competition

The International Law Section has announced a writing competition in honor of the memory of The Honorable Ronald Brown, former U.S. Secretary of Commerce. The competition is open to all students enrolled in California law schools, as well as out of state law students who are members of the California International Law Section. Announcements should be posted at your school. Articles must be received by February 27, 1997. If you would like information, please contact the Section Administrator at Tel: (415) 561-8264; Fax: (415) 561-8368.



ENFORCING CONTRACTS AND JUDGMENTS IN MEXICO

SAVE THE DATE!

Thursday, February 27, 1997 7:30 am - 10:30 am

ENFORCING CONTRACTS AND JUDGMENTS IN MEXICO

Mission Valley Marriott 8757 Rio San Diego Drive San Diego, California Cost: \$50.00

THE AUDIENCE: Companies having business in Mexico and their attorneys.

The Focus: Sales contracts for goods and services; joint venture agreements; merger and acquisition agreements; franchise agreements, contracts for investment; and financing contracts, including lease financing and credit agreements.

TOPICS

Introduction: Myths and Realities. The horror stories of contracts that have gone sour. Enforcement as an overall strategy. Contemplating enforcement issues from the outset: Planning, structuring, and security as the initial protections. Arbitration and litigation when the contract must be enforced through legal process. Enforcement of judgments once obtained.

Planning and Structuring: Planning - Contracting with the right party is the best assurance a contract will be performed. The benefits of due diligence. Choice of law and choice of forum as critical planning issues. Structuring contracts under Mexican law - Cultural conflicts in structuring and drafting; problems with executory obligations; the need for clarity and how to enforce in the face of uncertainty; the role of liquidated damages; the role of trusts.

Security: Security techniques under Mexican Law: the aval, analogous to the guarantee, the security agreement over personal property; the mortgage; the guarantee trust. The fianza (bond), including regulatory issues and enforcement strategies.

Arbitration: Contractual arbitration clauses. Alternative forums for arbitration. Who serves as arbitrator. Procedural issues. Expenses of arbitration. Enforcement of judgments.

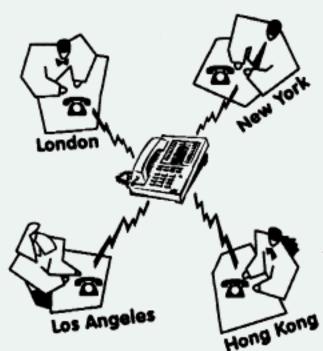
Litigation: Litigation in the U.S. over a Mexican contract. Litigation in Mexico over a Mexican contract. Positioning the case. What to expect. Strategies. Enforcement of judgments.

PANELISTS

Lic. Sergio Fillad, Despacho Sergio Fillad (Tijuana); Lic. Luis Gallardo, Gallardo Ogarrio y Oseguera, S.C. (Tijuana); Guillermo Marrero, Esq., Gray, Cary, Ware & Freidenrich (San Diego); John B. McNeece III, Esq. Luce Forward, Hamilton & Scripps (San Diego); Richard Page, Esq., Page & Busch (San Diego).



SECTION OFFERS NEW TELECONFERENCING SERIES



New Technology for Programs Convenient, Affordable & **Immediate**

The International Law Section is proud to present a new series of the Teleseminars which were introduced this year. Participants were impressed with the timeliness of the topics and the quality of the presentations, and most found the seminars a convenient way to obtain their MCLE credits. We welcome suggestions for topics and speakers for upcoming programs. Please contact Grant Barnes, Teleseminar Chair, Tel: 213/738-6054; Fax: 213/382-0006; E-mail: gbarnesesq@aol.com

Easy

"Attending a teleconference is as easy as making a telephone call," said Grant Barnes, Chair of the Teleconferencing Subcommittee which has done the work necessary to implement the new technology. An attendee registers for a teleconference by calling the State Bar at the number provided in the announcement of the program. Upon payment for the

course, the attendee receives a personal identification (PIN) as well as an 800 number to call. At the date and time of the conference, the attendee calls the number, punches in the PIN, and is automatically connected as a listener to the conference. MCLE certificates are provided after the call for those participating in it.

Convenient

"Teleconferencing allows our members to make the best use of their most precious commodity -- time," said Beth Greenwood, Section Secretary. "Someone can attend a teleconference from their own desk or any other convenient location." Unlike conferences in which attendees must be physically present at a specific location, both speakers and attendees at a teleconference only need a telephone line to attend a teleconference. No special facilities are required as in video conferences. Speakers who participate in a teleconference can be heard by other speakers and attendees; attendees participate by listening except during a specific question and answer portion of the program when attendees may call in questions to the speakers."

Immediate

"Teleconferencing greatly enhances a point which has always been one of the strengths of Section programs, our speakers, said Jeff Shields, Section Chair. "We can now present programs almost immediately after major events occur, Since it is so convenient for a speaker to participate in a teleconference program, speakers don't have to worry about travel time and expense before they say "Yes" to participating."

Cost Effective

"There's very little overhead cost with teleconferencing," said Linnet C. Harlan, also a members of the Teleconferencing Subcommittee. "Essentially the costs are the phone lines and the cost of publicizing the programs. We can pass the savings along in the form of reasonable costs."

Flexible

"Teleconferencing is a great technology for programs because it's so flexible," said Grant Barnes. "We can hold a program on very short notice, with a speaker from almost anywhere in the world, at a very reasonable cost. Members and non-members can turn to our Web Site frequently to be sure they know about all our upcoming programs. And because it's so easy to present a teleconference, members should be sure to let us know of programs they'd like to have as a teleconference, even if the topic is quite specialized. With teleconferencing, we can present a program for 15 or 1500!"

Where: From any telephone, whether in your office, a hotel, at home, or even in your car.

How: When you register, you will receive a toll-free number to call and a personal identification number (PIN). On the day of the teleseminar, call the number, and listen to the 45-50 minute lecture, followed by a 10-15 minute question and answer discussion.

Cost: \$45.00 for one teleseminar, \$85.00 for two, \$120.00 for three, \$160 for four, and \$200 for all five. A \$10 fee will apply to registrations which are not made at least 24 hours in advance of the scheduled program.

Questions? Registration Information? Call Tricia Horan at 415/561-8223.

TELESEMINARS

The The most convenient way to earn MCLE Credits

Call in from the convenience of your office or Call from the convenience of your office or car!

NEED MCLE CREDITS BEFORE THE JANUARY 31 DEADLINE?

Missing a few "special" MCLE Credits?

Improving Law Office Communication Using the Meyers-Briggs Personality Type Indicator Monday, January 8 Two Sessions Offered: 8:00 am PST and 5:00 pm PST

Attend either session for one unit of MCLE Law Office Management Credit. Joseph Pagano, M.A., Diplomate of Process Oriented Psychology, and founder of the Monterey Peninsula Friends of C.G. Jung, Monterey, CA, will speak on the MBTI and its use in improving communication and efficiency in law offices. NOTE: In order to obtain the most benefit from this presentation, it is strongly recommended that each participant take and have the results from a MBTI test or, if a MBTI is unavailable, the self-scoring test which is available on the Internet at http://sunsite.unc.edu/personality/keirsey/html.

Ethical Issues in the Practice of International Law Monday, January 14 Two Sessions Offered: 9:00 am PST and 5:00 pm PST

Attend either session for one unit of MCLE Ethics Credit. Paul W. Vapnek, a partner at Townsend and Townsend and Crew, San Francisco, will speak on the ethical issues which arise in the practice of international law, including selection of foreign counsel.

Legal Research on International Law Issues Using the Internet

Monday, January 22 Time: 8:00 am PST

Lyonette Louis-Jaques, Foreign and International Law Librarian and Lecturer in Law at the University of Chicago, and Guy Alvarez, Esq., Sharknet, Inc., moderator of the FORINTLAW listserv (dedicated to the discussion of substantive international law) will speak on using the Internet to conduct research on issues, specific search engines and discussion groups. NOTE: In order to obtain the most benefit from this presentation, it is strongly recommended that each participant review the information at http://www.lib.uchicago.edu/~llou/forintlaw.html prior to the presentation and have it accessible to you during the presentation. Ethical Issues in Marketing

Tuesday, January 23

Two Sessions Offered: 8:00 am PST and 5:00 pm PST

Attend either session for one unit of MCLE Ethics Credit. Robert N. Kohn, Sr. Vice-President, Kohn Communications (a firm which specializes in marketing consulting for lawyers), Century City, and Ira Spiro, a partner with Brown, Altshuler & Spiro in Beverly Hills. This presentation is aimed at helping attorneys understand the ethical rules relating to marketing, which in turn, aids attorneys in marketing more effectively.

Elimination of Bias

Wednesday, January 29 Two Sessions Offered: 8:00 am PST and 5:00 pm PST

Attend either session for one unit of MCLE Ethics Credit. John McDermott, Professor of Law, Loyola Law School, Los Angeles, will give an introductory presentation on issues relating to the recognition and elimination of bias as they relate to the practice of international law.



INVITATION TO APPLY FOR APPOINTMENT TO THE 1997/1998 INTERNATIONAL LAW SECTION EXECUTIVE COMMITTEE

If you are interested in joining the Executive Committee and are able to devote your time and talents to the development of programs, publications, and policy for the International Law Section, pleasecall the State Bar of California Appointments Administrator, 415/561-8885 or 213/765-1585. Applications are due no later than March 1, 1997.



STRESS BUSTERS

March 14-16, 1997
EARN 4 UNITS OF MCLE WHILE LEARNING TO REDUCE STRESS!

Join Us For A Stress Reduction/Networking MCLE Weekend at the Internationally Famous Spa -- The Palms at Palm Springs

Ready for a weekend that focuses on you? A weekend that relaxes and refreshes you while you learn how to be more productive? A weekend where you meet other international law practitioners while you relax, exercise, and earn MCLE credits, all at once? Then act now to reserve a space at the International Law Section's STRESS BUSTERS Stress Reduction and Networking Weekend at the Palms at Palm Springs.

A recipient of the Conde Nast Readers' Choice Award for the world's best resorts and spas and ranked by Conde Nast as one of the top ten U.S. spas, the Palms at Palm Springs is the site for this weekend of relaxation, information and fun. Best of all, the entire facility is reserved for the exclusive use of the International Law Section members and guests.

We've planned a weekend of interesting speakers and activities, as well as leaving plenty of time for networking with people you'll be glad you met and/or just plain relaxing beside the pool! It's a weekend you'll remember, and use, for months to come.

MCLE CREDIT

Each presentation on the Meyers-Briggs Personality Type Indicator will carry 1 unit of MCLE credit on Law Office Management. Each presentation on stress reduction strategies will carry 1 unit of MCLE credit on stress reduction and prevention/detection of substance abuse. Attendees will also receive an audiotape on elimination of bias which carries 1 unit of MCLE credit. The International Law Section is a State Bar of California approved MCLE provider.

COST

You'd expect a weekend at The Palms to be an extravagant indulgence, but we've negotiated extraordinary room rates of only \$114.10 (double occupancy, per person) and \$146.50 (single occupancy) per night, plus 14% gratuity and room tax. AND this low rate includes hotel accommodations; three daily nutritionally-balanced, low-calorie meals and snacks; thirteen optional fitness classes; the opportunity to consult with a registered nurse about your diet and exercise program; and complete use of the resort facilities, including swimming pool, saunas and spa, plus weight training and aerobic equipment. As a special bonus, those attending this weekend will receive the same low rates if they choose to arrive a few days early or stay a few days. Special spa services, such as massage, reflexology treatments, facials and body scrubs, are also available at reasonable additional costs. Contact The Palms directly at 619.325.1111 for further information.

The charge for the MCLE programs is \$100 for 5 credits if your registration is received by December 30, 1996 or \$135 if it is received thereafter. Early registration is available only for Section members and their guests.

REGISTRATION

If you would like further information or would like to register and have not yet received a brochure in the mail, please contact our Section Administrator at Tel: (415) 561-8264; Fax: (415) 561-8368.

PRESENTATIONS

(Only certain presentations offer MCLE credit. Final program details will be provided on-site.)

Presentations of particular interest to lawyers practicing international law will be scattered throughout the weekend. Many of the lecturers will also be available for individual consultations (some without charge; some for a modest fee) throughout the weekend.

Joseph Pagano, M.A., Diplomat of Process Oriented Psychology and Founder of the Monterey Peninsula Friends of C.G. Jung will speak on how understanding your personality type and those of coworkers will help you improve communication and work more efficiently. There will be a one-hour presentation early in the weekend which focus on the basics of the Meyers-Briggs Personality Type indicator and in-depth follow-up sessions.

Victoria Radel, Ph.D., P.T., the author of How to Reduce Stress through Good Communication Skills, will discuss practical stress reduction strategies you can use to make your life easier and healthier -- even before you get back to work Monday morning!

Shelley Miller-Mantell, Registered Dietitian, will speak on developing a nutritional program to meet your personal needs and lifestyle. Find out how to attain good eating habits which can help reduce stress and keep you healthy.

Deborah Uchalik, Ph.D., will present practical suggestions on how to incorporate physical activity into a professional lifestyle, as well as presenting research on the role of physical activity in managing stress and other negative moods.

Lawrence M. Kohn, author of Selling with Honor, Strategies for Selling without Selling Your Soul, and President of Kohn Communications, will speak on the art of acquiring new clients. Learn to be a "rainmaker" by doing things that feel safe and appropriate. (Is this a lecture you can afford to miss?)

Joan Badzik and Martha Spell, image consultants, will be available to meet with interested attendees for a complimentary color and style analysis. Your projected image is one of the most persuasive tools you have; learn to make the most of it! Joan and Martha work with professional women to enhance their business wardrobe. They will showcase a spring line of limited edition designer clothing.



SECTION EVENTS AT THE STATE BAR CONVENTION IN LONG BEACH

At the State Bar's 1996 Annual Meeting in Long Beach on October 10-13, the International Law Section sponsored four programs of interest, with each attracting crowds of 75-150 attendees. The programs were: Customs Law Basics: Avoiding Importer Penalties in an Era of Informed Compliance [Speakers: Debra Belanger - Stein Shostak Shostak & O'Hara and Barry Powell - Grunfeld, Desiderio, Lebowitz & Silverman]; Ethics in International Legal Issues [Speaker: Professor John McDermott - Loyola Law School]; International Legal Aspects of the Internet [Speaker: Carl Middlehurst - Sun Microsystems]; and Trends in International Telecommunications [Speaker: Dana Stanculescu, Carroll, Burdick & McDonough, L.L.P.]

Many Old and New Faces at International Law Section's Second Annual Reception

The Second Annual International Law Section Reception was a huge success this year, with well over 100 attendees. The event was held on Friday, October 11, 1996 during the Annual State Bar Convention, and featured live music, as well as a special visit and address by Lilliana Ferrer, Director of Economic Affairs, Consulate of Mexico.

Section Events at FALL EDUCATION INSTITUTE IN Palm Springs ...

The International Law Section sponsored four programs at the State Bar's Fall Section Education Institute in Rancho Mirage/Palm Springs on November 8-10, 1996: U.S. Immigration Law: Advancing or Retrogressing into the 21st Century [Speaker: David Hirson and Gary Perl - Hirson, Wexler, Perl & Stark]; International Alternative Dispute Resolution [Speakers: Robert Cotten - Hughes Electronics Corporation and Steven Smith - O'Melveny & Meyers]; Taking Discovery Abroad [Speaker: Jeff Shields - Bryan Cave, L.L.P].; and Customs Law Basics [Speakers: Debra Belanger and Steven Zisser - Stein Shostak & O'Hara PC].



BANK SECRECY ACT

"Know Your Customer" Regulations Finally to be Issued New "Suspicious Activity Report" Rules Issued

Thomas Rae Bennett

Bank of America Legal Department San Francisco, CA

The Bank Secrecy Act, together with the Money Laundering Control Act of 1986, are the two primary U.S. laws designed to combat the illegal laundering of money derived from criminal activities.

Financial institutions, which have been viewed as obvious targets of money launderers, have been saddled with numerous responsibilities and potential liability under the money laundering laws.

The Bank Secrecy Act

The Bank Secrecy Act has nothing to do with secrecy and instead was designed to minimize bank secrecy in order to thwart U.S. citizens from using domestic and foreign banks to violate U.S. tax and other laws. This Act requires financial institutions to maintain copies of checks and other financial records, and to report specified transactions involving individuals and organizations.

Financial institutions are required to report to federal authorities each cash transaction over \$10,000. Multiple transactions of under that amount by a person in a single day aggregating at least that amount must also be reported. Records must be kept of each transfer of more than \$10,000 into or out of the U.S. (no matter how transferred).

A separate federal law requires the reporting by any trade or business (including lawyers) of cash payments over \$10,000 in a single transaction. A number of highly publicized cases involving auto dealerships have involved this law.

Any person who physically transports, mails or ships more than \$10,000 into or out of the U.S. is also required to report the transaction. Violations of the statute can result in seizure of the funds, although the appropriateness of this penalty is currently being contested in the federal courts.

Money Laundering Control Act

The Money Laundering Control Act of 1986 made "money laundering" itself a crime. Money laundering consists of dealing with the proceeds of a wide range of "specified unlawful activities" if the dealings are intended to further the unlawful activities or conceal or disguise the source or ownership of the proceeds. The defendant must "willfully" attempt to launder money, although "willful blindness" can also result in conviction. The term "specified unlawful activity" includes a wide range of domestic crimes and a smaller number of foreign crimes.

While one of the key safeguards in the money laundering policy of any financial institution is a well-enforced

"know your customer" policy, to date there has been no specific federal requirement that financial institutions have such a policy, with the exception of a limited requirement in the Bank Secrecy Act pertaining to obtaining the taxpayer i.d. number of customers.

This is about to change. After years of delay by the agencies charged with developing know your customer guidelines, the Federal Reserve has announced that it intends to issue proposed "know your customer" rules by the end of 1996. A primary reason for the development of the rules is a number of highly publicized situations in which the customers of private bank units of U.S. banks have been accused or convicted of money laundering. The rules will apply to all financial institutions which are regulated by the Federal Reserve including U.S. branches and agencies of foreign banks.

The rules are expected to require financial institutions to do the following:

- Take steps to verify identification of customers;
- Create an account "profile" of anticipated transactions;
- Monitor account activities to determine that they are consistent with the profile and to spot unusual or suspicious activities; and,
- Report activities that suggest possible money laundering violations.

A new form called a "Suspicious Activity Report", discussed below, must be filed in such cases.

New Suspicious Activity Reporting Requirements

Last April, a major change was made to the existing "suspicious transaction" reporting system. Under the new rules, banks and other depository institutions are required to report "suspicious activity". The new rules require a financial institution to report any activity that it knows, suspects or has reason to suspect:

- Involves funds derived from illegal activities;
- Is designed to evade any requirements of the Bank Secrecy Act and regulations; and,
- Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the institution knows of no reasonable explanation for the transaction after examining it.

The last requirement is broad in scope and places heightened responsibilities on financial institutions to actively monitor their customers.



IMMIGRATION LAW UPDATE - DECEMBER 1996 A SUMMARY OF THE 1996 ACT

David Hirson

Hirson Wexler Perl & Stark Vice-chair, International Law Section

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 came into effect on September 30, 1996. This far reaching legislation follows close on the heels of other recent immigration related legislation, including the Welfare Reform Bill, Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and the Anti-Terrorism Effective Death Penalty Act (AEDPA).

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)

Many provisions of IIRIRA are not mentioned or discussed in this summary and practitioners are encouraged to review IIRIRA for a full understanding of its impact. Presently no regulations have been published (December 2, 1996). Interpretations vary and in time case law will supplement the interpretative process.

Bar to Admissibility (the 3 and 10 year bar) The definition of entry in 101(a)(13) of the Immigration and Nationality Act (INA) is replaced with the concept of admission, meaning that an immigration officer has inspected the alien and authorized the entry. IIRIRA creates bars to admissibility for aliens who were unlawfully present (overstayed a period of admission or entered without inspection). An alien unlawfully present for more than 180 days but less than one year, but who left the U.S. voluntarily before removal proceedings began, is inadmissible for three years from the date of departure. An alien unlawfully present for one year or more is inadmissible for 10 years from the date of departure. Exceptions exist to bars for minors, asylees, family unity beneficiaries, and battered spouses and children. The bars can also be waived for an immigrant who is the spouse or son or daughter of a U.S. citizen or lawful permanent resident if extreme hardship would result to the qualifying relative. The unlawfully present periods are tolled for up to 120 days for those who were admitted or paroled; filed a nonfrivolous application for change or extension of status before their authorized stay expired; and were not employed without authorization. The counting of time unlawfully present for the bars begins to run from April 1, 1997.

A separate 5-year bar to admissibility is created for an alien ordered removed under INA 235(b)(1) or at the end of new INA 240 removal proceedings that were initiated upon the alien s arrival. The bar is 20 years for a second or subsequent removal and permanent for aliens convicted of any aggravated felony. A separate 10-year bar to admissibility is also created for aliens otherwise ordered removed or who have departed the U.S. while an order of removal is outstanding. This bar increases to 20 years for a second or subsequent removal and is permanent for a person convicted of an aggravated felony. These bars can be waived if the Attorney General gives prior consent to the alien s reapplication for admission.

IIRIRA imposes a permanent bar to admission for aliens who were unlawfully present for an aggregate period of more than one year or who have been ordered removed, and who subsequently enter or attempt to enter the

U.S. without being lawfully admitted. If the Attorney General gives prior consent to the alien s reapplication for admission, the alien can be admitted after 10 years.

Asylum IIRIRA amends the definition of refugee in INA 101(a)(42) to provide that a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for resistance to coercive population control programs, is deemed to be persecuted on account of political opinion, and to have a well-founded fear of persecution.

IIRIRA provides for exclusion without a hearing for people with no documents or fraudulent documents unless they state a credible fear of persecution or an intention to apply for asylum. This provision also may be applied at the Attorney General s sole and unreviewable discretion to an alien present in the U.S. if that alien was not admitted or paroled (entered without inspection) and cannot establish continuous presence in the U.S. for the two prior years.

Asylum officers will screen applicants for credible fear of persecution, defined as a significant possibility that the alien could establish eligibility for asylum. If applicants do not demonstrate credible fear they will be removed without further review unless they request review by an immigration judge (IJ). The IJ review must be within seven days of the asylum officer s decision, during which time the applicant is to be detained. If credible fear is demonstrated, the applicant will be detained pending non-expedited consideration of the application. Aliens may consult with anyone prior to their asylum interview or review, but at no expense to the government. The consultation must not unreasonably delay the process.

There is no other administrative review of the credible fear determination, except for people claiming to be Legal Permanent Residents (LPRs) or to have been admitted as a refugee or granted asylum. In that case, the alien is entitled to such administrative review as the Attorney General provides by regulation.

IIRIRA amends INA 208 to prohibit asylum applications by anyone who: (1) may be returned to a country (other than the country of nationality) in which the alien s life or freedom would not be threatened; (2) does not show by clear and convincing evidence that the application has been filed within one year after the alien s arrival; and (3) had previously applied for asylum and that application had been denied. The time limit and previous application prohibitions would not apply in the case of changed circumstances which materially affect eligibility for asylum or extraordinary circumstances relating to the delay in filing an application.

Cancellation of Removal IIRIRA changes current INA 212(c) and suspension of deportation relief to "cancellation of removal. Cancellation of removal for LPRs (analogous to Sec. 212(c) relief) requires seven years of continuous residence, five of which were as an LPR. This relief is not available to anyone convicted of any aggravated felony (regardless of time sentenced or served). INA 212(c) is repealed (including changes made by AEDPA). Cancellation of removal for non-LPRs who are inadmissible or deportable requires 10 years good moral character and continuous physical presence and exceptional and extremely unusual hardship to a spouse, parent, or child who is a U.S. citizen or LPR (not to the applicant). An alien is not eligible if he or she was convicted of enumerated offenses. Special rules apply for battered spouses and children.

IIRIRA further provides that continuous physical presence or continuous residence is interrupted by service of a "notice to appear" or when the alien has committed an inadmissible or removable offense, whichever is earlier. Continuous physical presence also is interrupted by an absence of 90 days or aggregate absences of more than 180 days.

IIRIRA also imposes new restrictions on voluntary departure (new INA 240B). If the alien voluntarily departs before completion of removal proceedings, voluntary departure can be valid for 120 days. The alien must not be deportable under numerated grounds, and a bond may be required. If the alien seeks voluntary departure at the conclusion of removal proceedings, the alien must prove that he or she: (1) has been physically present in the U.S. for at least one year before service of the notice to appear; (2) has been a person of good moral character for at least five years; (3) is not deportable under enumerated sections; and (4) has the means to depart and intends to do so. Grants of voluntary departure are limited to 60 days, and a bond is required. An alien who fails to timely depart voluntarily is ineligible for specified relief for 10 years and is subject to civil penalties.

Hearing procedures are amended. The requirement that notices be provided in English and Spanish is limited. The mandatory period between notice of hearing and date of hearing is reduced to 10 days. Merits hearings may take place in person or by video conference, or, with the consent of the alien, by telephone. An alien who fails to appear is ineligible for relief (voluntary departure, cancellation of removal, adjustment, change of nonimmigrant classification, registry) for 10 years.

An applicant for admission has the burden of proving eligibility for admission "beyond doubt." An alien who is not an applicant for admission must prove, by clear and convincing evidence, lawful presence pursuant to a prior lawful admission. The INS retains the burden to establish by clear and convincing evidence that the alien is deportable.

Aggravated Felony Expanded The definition of Aggravated Felony is amended by adding rape and sexual abuse of a minor and expanding the crimes defined as aggravated felonies by lowering the sentence and monetary amount thresholds involved in many crimes defined as aggravated felonies. A first offense of alien smuggling or document fraud is not an aggravated felony if carried out to assist the smuggler s spouse, child or parent. The new definition applies to offenses that occurred before, on, or after September 30, 1996. However, the amendments apply to actions taken on or after that date, regardless of the date of conviction.

212(h) and (i) Waivers IIRIRA makes an INA 212(h) waiver unavailable to LPRs who since admission as LPRs have been convicted of an aggravated felony or who have not lawfully resided continuously in the U.S. for at least seven years before initiation of removal proceedings. This section does not impose similar restrictions on non-LPRs. No court has jurisdiction to review the Attorney General s decision or action regarding a Sec. 212(h) waiver application. These provisions apply to currently pending exclusion and deportation proceedings, unless there has been a final administrative order as of September 30, 1996.

IIRIRA amends the waiver provisions of INA 212(i) (waiver of fraud or material misrepresentations). It provides that inadmissibility may be waived for an immigrant who is the spouse, son or daughter of a U.S. citizen or LPR if the refusal of admission of such immigrant would result in extreme hardship to the qualifying relative. No court has jurisdiction to review the Attorney General s decision or action regarding this waiver.

Document Fraud Document fraud liability is expanded to those who engage in document fraud for the purpose of obtaining a benefit under the Immigration and Naturalization Act (INA). New liability is established for (a) those who prepare, file, or assist another person in preparing or filing an application for benefits with knowledge or in reckless disregard of the fact that such application or document was falsely made; and (b) aliens who destroy travel documents on route to the United States after having presented such documents to board a common carrier to the United States.

"Falsely make" is defined as preparing or providing an application or document with knowledge or in reckless disregard of the fact that the application or document contains a false, fictitious, or fraudulent statement or material representation, or has no basis in law or fact, or otherwise fails to state a material fact. A discretionary waiver from civil document fraud penalties may be provided to an alien who is granted asylum or withholding of deportation. The changes concerning the new definition of "false making" apply retroactively to applications prepared before September 30, 1996.

A Single Removal Hearing Replaces Separate Deportation and Exclusion Hearings IIRIRA establishes a single "removal" hearing in place of the current separate deportation and exclusion hearings. "Removable" is defined as deportable or excludable.

Judicial Review IIRIRA severely limits judicial review. Other than the granting of asylum, no court has jurisdiction to review discretionary decisions or actions of the Attorney General, including denials of discretionary relief under INA 212(h); 212(i); 240A (cancellation of removal); 240B (voluntary departure) or 245 (adjustment of status). Orders of removal in individual cases under new INA 235(b)(1) are reviewable only in habeas corpus proceedings. Judicial review in almost all cases involving criminal aliens is precluded.

Affidavits of Support The affidavit of support must bind the sponsor who must have an income level of at least 125 percent of the federal poverty line. The obligation to support is enforceable by the alien, the Federal Government, or any state or political subdivision of a state, and must continue to be enforceable against the sponsor until the alien has become a citizen or until the alien has been credited for 40 qualifying quarters of

work. Qualifying quarters are defined the same as in the welfare law.

In general, the sponsor who signs the affidavit of support must also be the person petitioning for admission of his or her relative. If the petitioner does not meet the 125 percent minimum income requirement, he or she may find another individual who does meet the income requirements and is willing to accept joint and several liability with the sponsor.

The Attorney General is required to promulgate a standard form by January 1, 1997 for an affidavit of support consistent with the provisions of this section. The new requirements then take effect on a date between 60 and 90 days after promulgation of the standard form.

Adjustment of Status The Reform Act amends INA 245(c) to prohibit adjustment of status to aliens who are not in lawful nonimmigrant status, who have violated the terms of their nonimmigrant visas, or who have engaged in unauthorized employment. The application fee for adjustment of status under INA 245(i) is increased to \$1,000. This applies to applications made on or after December 29, 1996.

Employment Eligibility Verification By September 30, 1997, the Attorney General is required to implement three employment eligibility confirmation pilot programs of no more than four years duration. The three programs must be: (1) the basic program, to be implemented in at least five of the seven states with the highest estimated population of undocumented aliens; (2) the citizen attestation program, in at least five states; and (3) a machine-readable program, in at least five states.

Any hiring entity in a state in which a pilot program is operating may elect to participate, and can determine whether participation will apply to all its hiring, in the pilot program state(s) or to places within those state(s). Those participating in either the basic or citizen attestation programs also may elect to apply their participation in non-program states, with some restrictions. Participation may be required for employers found guilty of violations of certain sanctions provisions. The Attorney General has power to reject or terminate participation by employers. By participating and complying with procedures, employers establish a rebuttable presumption that they have complied with verification provisions.

For the basic program, employers will be required to complete Form I 9 with a more limited list of documents and, in addition, get social security and alien number information for noncitizens. The employer will then use a confirmation system to verify the information obtained within three working days of the hire. If the confirmation system is unable to confirm the information, the burden shifts to the employee to contest the nonconfirmation, but the nonconfirmation is tentative and no employer can use it to terminate employment until final. If the nonconfirmation becomes final, and the employer does not terminate the employee (or does not notify the INS that it has terminated the employee), the employment becomes a knowing hire of an unauthorized alien.

For the citizen attestation program, if an employee attests to being a U.S. citizen, the employer may request documentation but is not required to do so or to seek confirmation. This pilot will be limited to 1,000 employers.

The machine-readable program will be limited to states where identification documents issued in the state include machine-readable social security account numbers. If the employee presents a document that includes such a feature, the employer must make an inquiry through the confirmation system by using the machine-readable information.

IIRIRA requires the Attorney General to establish a confirmation system for identification and employment eligibility verification information within three working days through a toll-free telephone or electronic communication, with a secondary verification to be provided within ten working days. The information contained in the system may not be used for anything other than the pilot projects and nothing is to be construed to authorize establishing a national identity card.

IIRIRA limits liability for certain technical violations of paperwork requirements. Employers are exempted who have technical or paperwork violations of the employer sanctions provisions, if there has been a good faith attempt to comply with the verification requirement. The exemption will not apply if the INS finds the violation, explains the violation to the employer, and gives the employer a ten-day window to cure, and the employer does not do so. This provision also does not apply if the employer has engaged in pattern and practice violations. This section applies to violations occurring on or after September 30, 1996.

IIRIRA reduces the number of documents that may be used for work verification (eliminates the certificate of naturalization, the certificate of citizenship, and foreign passports), but allows other documents to be designated by the Attorney General if such documents are for both identification and employment eligibility purposes and have security features. A birth certificate is removed as a document specifically identified for employment authorization. This section takes effect upon designation of the Attorney General, but not later than September 30, 1997.

IIRIRA amends INA 274A(e)(2) to enable INS officers to compel testimony and evidence prior to filing a complaint regarding unlawful hiring or indemnifying against liability

Miscellaneous

There is an effective date transitional rule for aliens in deportation or exclusion proceedings on April 1, 1997. The general rule is that the provisions of the new law do not apply to those individuals. However, if an evidentiary hearing in a deportation or exclusion proceeding has not been held as of April 1, 1997, the Attorney General may elect to proceed under the new law. The Attorney General must provide notice of this election no later than 30 days before the evidentiary hearing begins.

In addition, even if there has been an evidentiary hearing as of April 1, 1997, if there has been no final administrative decision, the Attorney General may elect to terminate the proceeding and reinitiate it under the new provisions. Any determination in the terminated proceeding is not binding in the reinitiated proceeding.

IIRIRA provides a transitional rule for suspension of deportation cases, providing that the rule on the effect of the issuance of a notice to appear on continuous residence/ physical presence for suspension purposes applies to notices issued before, on, or after September 30, 1996.

The Conrad State 20 Program for foreign medical graduates (FMGs) is extended to the year 2002. The same standards apply to a waiver of the foreign residence requirement for a state government agency as for a federal agency. An interested agency waiver is allowed if: (1) the government of the country to which the alien is contractually obligated furnishes the U.S. Information Agency with a statement in writing that it has no objection to such a waiver; and (2) the alien demonstrates a bona fide offer of employment that has been found to be in the public interest, agrees to begin work at the facility within 90 days of receiving the waiver, and agrees to continue working for at least three years, unless extenuating circumstances exist.

Labor certifications continue to be valid for professional athletes after the athlete changes employers, if the new employer is a team in the same sport. Professional athlete is defined as an individual who is employed by a team that is a member of an association of six or more professional sports teams whose total combined revenues exceed \$10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions. The definition also includes any affiliated minor league team.

F 1 nonimmigrant student status is prohibited for an alien who seeks to attend a public elementary school or a public adult education program. Entry to attend a public secondary school is also prohibited unless the aggregate period of F 1 status does not exceed a year and the alien reimburses the school for the costs of providing education. An alien who obtains an F 1 visa to attend a private school is deemed to have violated F 1 status if the alien then transfers to a public school (including publicly funded adult education programs or adult education language training programs), unless (in the case of a secondary school) the student meets the above time limit and cost conditions.

These provisions apply to individuals who obtain F 1 student status after the end of the 60-day period beginning on the date of enactment (around December 1, 1996), and includes aliens whose status is extended after that period.

A nonimmigrant visa is void as soon as the nonimmigrant alien overstays his or her period of authorized stay. This applies to visas issued before, on or after September 30, 1996. Also, an alien is ineligible to be readmitted as a nonimmigrant except on the basis of a visa issued in a consular office located in the alien s country, or where extraordinary circumstances exist. This applies to any alien applying for readmission after September 30, 1996, except for an alien applying for readmission based on a visa issued before the date of enactment.

Conclusion

The old law is complex. The new law substantially adds to these complexities. Technical amendments and other innovations to the immigration law can be expected with practice, litigation and political tide changes. Rumors have it that Congress will address issues of Legal Immigration during the current session. Watch this column for more updates.

For further information, contact David Hirson, Chair, Immigration Committee& Vice-Chair, International Law Section Executive Committee. Tel: (714) 251-8844; Fax: (714) 251-1545; E-mail: 73411.37@compuserve.com



NEWS FROM AROUND THE WORLD

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PUBLIC INTERNATIONAL LAW

U.N. Votes To End U.S. Embargo Against Cuba

For the fifth year in a row, the U.N. General Assembly overwhelmingly adopted a non-binding resolution calling for an end to the U.S. trade embargo against Cuba. The resolution expressed concern about "the continued promulgation and application by member states of laws and regulations, such as . . . the Helms-Burton act, the extraterritorial effects of which affect sovereignty of other states, the legitimate interests of entities or persons under their jurisdiction and the freedom of trade." The resolution passed by a margin of 137 to 3, with 25 abstentions. Only the United States, Israel and Uzbekistan voted against it. The members of the European Union voted in favor of the resolution for the first time as part of a continuing battle between the EU and the United States over the Helms-Burton law targeting foreign investment in Cuba.

War Crimes Tribunal Sentences Bosnian Serb Soldier

Drazen Erdemovic, a 25-year old Croat and former member of the Bosnian Serb Army, was sentenced to ten years in prison for his participation in the massacre of 1,200 Muslims at Srebrenica in 1995. He was the first individual sentenced by the U.N. war crimes tribunal and the first to be sentenced for war crimes since the trials following World War II. During the pre-sentencing hearing, the prosecution asked for leniency due to Mr. Erdemovic's cooperation in revealing the extent of the atrocities committed in Srebrenica. Erdemovic is expected to serve his sentence either in Norway or Finland, both of which have offered to house prisoners convicted in the U.N. tribunal.

Desertification Treaty To Take Effect In Late December

The United Nations Convention to Combat Desertification, an environmental treaty aimed at halting soil degradation and promoting sustainable development, will go into effect on December 26, 1996. The convention was an outgrowth of the 1992 Rio Earth Summit and has been signed by 114 countries. Following the recent ratification of the convention by fifty countries, the environmental treaty will become international law, binding on all countries which have ratified or acceded to it. The treaty commits those countries to implement "commitments" to combat soil degradation and erosion. Although the provisions of the convention are aimed primarily at problems in Africa and parts of Asia, land in the U.S. and southern Europe is effected as well. The first session of the body which will implement the treaty is scheduled to meet in late 1997 in Rome.

WORLD TRADE ORGANIZATION

WTO To Investigate Helms-Burton Act

The World Trade Organization's Dispute Settlement Body, at the request of the European Union, will establish a three-member panel to decide whether the Helms-Burton Act improperly punishes foreign investors in Cuba. Once established, the panel will have six to nine months to file its report. The U.S. has relied on a WTO article, which permits members to take actions to protect their national security interests, to justify the Helms-Burton Act.

Convention Under Attack In The WTO

The World Trade Organization (WTO) began hearing a complaint from the United States, Guatemala, Honduras, and Mexico arising from the European Union's banana import rules. The complaint alleges that the banana import rules, as carried out under the Lome Convention, are discriminatory and contrary to the WTO rules. The Lome Convention, signed in 1975, gives 70 African, Caribbean, and Pacific countries (ACP nations) that have had previous colonial and economic ties with European Union members, the most preferential import tariffs of all European Union trade partners. A previous GATT panel declared the import rules to be a violation of GATT rules, however, the EU blocked adoption of the panel report. The blocking tactic will not be an option under WTO dispute resolution procedures and the hearing could add to the considerable strain on the Lome Convention due to conflicting views within the European Union. The ACP nations, who have a considerable stake in the outcome, will not be allowed to fully participate in the panel hearings, but will be restricted to one statement of their position.

WTO Appeal - Japan's Liquor Taxation System

The WTO Appellate Body upheld a lower WTO panel's decision that Japan's practice of putting higher taxes on foreign distilled spirits, including vodka, gin, and whiskey, was an unfair trade barrier. This case arose when the United States, the European Union, and Canada brought a WTO complaint alleging that Japan taxed foreign distilled spirits four to six times more than the domestically produced traditional spirit "shochu". The WTO Appellate Body requested that Japan revise its liquor taxation system and set up a system of equal taxes for both foreign and domestic liquor. Japan is the second largest market for U.S. distilled spirits with exports of \$100 million per year.

WTO Complaint - Indonesia's "National Vehicle" Program

The European Union and Japan filed complaints with the World Trade Organization over Indonesia's "national vehicle" program. Under this program, vehicles that secure a 60% local content over a three year period are exempt from luxury taxes and customs duties. In addition, under this program, some Korean made vehicles have entered Indonesia duty free merely because these vehicles belong to a joint venture between a Korean company and a company owned by the son of Indonesia's president. Vehicles from the EU incur a 125% tariff and 40% luxury tax. Recently the United States announced that it will join the EU and Japan in their complaint against Indonesia and will initiate a Section 301 investigation.

FOREIGN & COMPARATIVE LAW

LATIN AMERICA

Mexico's "Antidote" Bill To Helms-Burton

On October 1, 1996, Mexico's Chamber of Deputies passed an "antidote" legislation to the Helms-Burton law. This "antidote" legislation, also called "The Law to Protect Trade and Investment from Foreign Standards in Violation of International Law," requires Mexican companies to inform the Mexican Government, if they could be harmed by "extraterritorial foreign laws". The legislation also prohibits Mexican companies from complying with these "extraterritorial foreign laws" and from providing information to foreign courts or authorities in charge of enforcing these laws. Furthermore, Mexican companies can countersue United States companies bringing suits under the Helms-Burton law. Violators of the "antidote legislation" who choose to comply with U.S. law could be subject to sanctions ranging from \$3,000 to \$300,000.

Mexico Moves To Ally Itself With Mercosur

Argentine President Carlos Menem and Mexican President Ernesto Zedillo signed a series of agreements involving drug trafficking, money laundering, and the U.S. Helms-Burton law, and more. Mexico signed the agreements in an attempt to gain a closer relationship with the Southern Cone Common Market ("Mercosur") which is comprised of Argentina, Brazil, Uruguay, and Paraguay. Mercosur signed an agreement earlier this year with Chile and is negotiating with Bolivia.

Mexico Considers Stiffening Penalties For IP Violations

New legislation which would provide substantially tougher sanctions for copyright violations has been drafted and submitted to Mexico's Congress and approval is expected soon. Mexico's penalties for copyright violations have traditionally been minor. Under the proposed legislation, however, penalties for copyright violations will include prison sentences from one to six years, as well as fines of up to 20,000 times the daily minimum wage. The penalties are even more severe for violations of software privacy.

Panama & Paraguay To Be Investigated For Alleged Failure To Protect Intellectual Property Right

The Office of the U.S. Trade Representative has opened investigations into the continued qualification of Panama and Paraguay under the Generalized System of Preferences (GSP). The GSP allows the duty-free entry of qualified goods from developing nations into the United States if participating nations provide adequate intellectual property protection. The International Intellectual Property Alliance (IIPA), an industry group, supported petitions asking USTR to investigate IP practices, claiming that Panama and Paraguay are both transshipment points for pirated goods.

Brazil Claims Confiscated Axis Assets

During a recent investigation, a Brazilian treasury official discovered 46 million dollars worth of assets confiscated from citizens of the Axis powers during World War II. The Brazilian government seized the assets of German, Italian, and Japanese immigrants following a March 11, 1942 presidential decree and turned over custody of the property to the Banco do Brasil. In 1956, the assets were ordered to be returned if the owners claimed them within a stated time period. After several extensions, the time period finally ended in 1980, at which time the unclaimed assets became government property. The assets discovered consist primarily of holdings in the Brahma beer company, the Fepasa railroad company, Itau bank, the Nova Friburgo electric company, and Banco do Brasil.

EUROPEAN UNION

British Parliament Outlaws Most Handguns

The British parliament passed a new gun control law in response to public outcry following a massacre at Dunblane in which Thomas Hamilton killed 16 children and their teacher last march. The law is one of the toughest in the world, prohibiting legal ownership of any handgun above a .22 caliber. Smaller .22 caliber guns were exempted due to their use in sporting events such as the Olympics, however, even these smaller guns may be kept and used only in secure gun clubs. Although the law will impact 80% of the guns now legally owned in Britain, family members of the Dunblane victims and members of the Labour Party claimed the restriction was insufficient, demanding a complete ban on all guns.

Germany Frees Companies To Scale Back Benefits

Germany's legislative body, the Bundestag, approved measures which would allow companies to institute sick-pay cuts as part of an austere budget plan. Also as part of the plan, the retirement age for women was increased, companies were given flexibility in the firing of workers, and the German health-care system was altered. Daimler-Benz, Germany's largest industrial conglomerate, has already announced that it would reduce sick pay for all its workers from 100% of pay to 80%. Similar cuts were announced by Mennesmann AG, BASF AG, Hoechst AG, and Adam Opel AG (a subsidiary of General Motors.). Several thousand workers have staged protests or held strikes. In response to worker discontent, Audi announced a compromise of full pay during

absences caused by illness as long as the 20% is later worked off or paid back.

E.U./U.S Mutual Recognition Agreements a Priority

The European Union has announced that mutual recognition agreements between the E.U. and the U.S. are a "top priority" for E.U. governments. These mutual recognition agreements would allow approvals of products successfully tested in the E.U. to be recognized in the U.S., and vice versa. The E.U. and U.S. are attempting to create mutual recognition agreements in a variety of areas, including medical devices, pharmaceuticals and electrical safety. Discussions took place under the Transatlantic Business Dialogues, which insisted that a Mutual Recognition Agreement be concluded in January of 1997.

ASIA

China Allows Sino-Foreign Trading Joint Ventures's

On September 30, China's Minister of Foreign Economic Trade and Cooperation issued long awaited regulations which will allow overseas companies to establish Sino-foreign trading joint ventures in China. These ventures will constitute the first time that foreign companies have been allowed to engage in the import/export business within China. Although the new regulations are part of an effort to bring China closer to membership in the World Trade Organization, the restrictions in the regulations make the rules largely symbolic. Among the many caveats in the rules, regulations require that foreign partners have been engaged in China for the past three years and have an annual sales turnover in excess of five billion U.S. dollars. Furthermore, joint venture companies must be limited liability companies with a Chinese partner who must hold at least 51% of the registered capital.

MIDDLE EAST

Iran's Bid To Join WTO

The WTO secretariat confirmed that Iran applied for membership in the WTO last year. However, Iranian officials have kept the application secret in fear of opposition from conservative merchants and Islamic hard-liners. Due to the potential advantages for Iran's non-oil economic development and trade, membership is supported by Tehran's business and banking community, members of the current government, technocrats in the bureaucracy, and a substantial minority in the Iranian parliament, the Majlis. However, conservative merchants, who benefit from the current system of import/export licenses, and the hard-line Islamic traditionalists, who see all international organizations as part of a U.S. conspiracy, have a majority in the Majlis and could block any attempt to join the WTO. Iran's request to attend the December WTO ministerial meeting in Singapore as an observer was refused without comment.

NORTH AMERICA

Clinton Liberalizes Export Of Encryption Technology

In November, President Clinton signed an executive order which liberalizes U.S. export policy with respect to encryption technology. Restrictions on the export of computers or software that use encryption to protect the security of data has been the subject of an ongoing dispute between the U.S. government and the technology industry, which claims that such restrictions have hurt the competitiveness of U.S. products abroad.

USTR Representative Praises Taiwan For Good Intellectual Property Rights Record

Acting U.S. Trade Representative Charlene Barshefsky praised Taiwan for making serious efforts to address intellectual property enforcement problems over the last six months after announcing that Taiwan would be dropped from the list of nations which the U.S. considers to have enforcement concerns. Barshefsky noted that over the past six months Taiwan has actively discouraged all investments in companies in mainland China which are involved in pirating C.D.'s., and has conducted raids within Taiwan against counterfeit business software. Taiwan has also legally mandated a bar code system for all C.D.'s produced in Taiwan. In contrast, Barshefsky said that Italy and Thailand are to remain on a 'watch list' of countries which are weak on protection of intellectual property laws.



INTELLECTUAL PROPERTY ON THE WEB

by Glen W. Price, Los Angeles (1996)

The protection of intellectual property has been the focus of a concerted effort on the part of the United States Trade Representative over the past decade. This strong government involvement in the promotion and protection of intellectual property rights is reflected in the legal resources which are available on the web.

Many of these resources center around multi-lateral treaties and agreements which are public international law, operating in conjunction with national resources offered under the auspices of various patent offices around the world. Although there are a number of useful practitioner resources available, this column will not focus on these as most are incorporated into the sites of large private law firms (if you wish to search these out, you can use a search engine such as Yahoo or Webcrawler.)

United States Patent and Trademark Office [www.uspto.gov]

This government site provides a comprehensive resource when dealing with issues involving U.S. patents and trademarks, as well as useful links to international information. Perhaps the most useful aspect of the site is the ability to search the U.S. patent database, which contains bibliographic records since 1976.

United States Copyright Office [www.copyright.gov]

The copyright site provides similar resources to those found at the patent site, including the ability to connect via a telnet utility to the Library of Congress Copyright database.

International Trade Law Project Intellectual Property Page [ananse.irv.uit.no/trade_law/nav/i_p.html] This site provides an inclusive list of international treaties and agreements which relate to protection of intellectual property.

World Intellectual Property Organization [www.wipo.org/eng/index.html]

WIPO is the governing international body of a number of important international intellectual property agreements. The official site provides text of agreements, in addition to bulletins on current developments in interpretation and enforcement.

Intellectual Property Magazine Online [www.ipmag.com]

A practitioner's resource which covers the field of intellectual property in the United States and beyond. The online magazine is free and provides articles and updates on various aspects of the IP practice.

European Commission Legal Advisory Board [www2.echo.lu/legal/en/ipr/ipr.html]

This is an excellent resource for practitioner's interested in European Union IP law. The site contains EU legislation, documents, and statutes from member countries. In addition to IP law, the site focuses on issues related to electronic media such as computer crime, data encryption and privacy, and the protection of electronic transactions.

European Patent Office [http://www.european-patent-office.org]

This site contains basic information concerning European patents and contact information for the patent offices in member countries. The European Patent Register is searchable from the site, but this is a fee-based service.

Selected Foreign Patent Office Websites:

Japan Patent Office [www.jpo.go.jp]

Canadian Intellectual Property Office [www.cipo.gc.ca]

Australian Industrial Property Organization [www.ipaustralia.gov.au]



NON-SECTION ACTIVITIES OF INTEREST

ABA - ILEX

Delegation & Briefing Trip Vietnam & Hong Kong February 28 - March 12, 1997

The ABA International Law and Practice Section, in conjunction with the Asia-Pacific Law Committee and the China Law Committee have planned this timely and informative trip to Vietnam and Hong Kong. The Vietnamese portion of the trip is designed to familiarize participants with the evolving state of the legal regime and to identify areas where the ABA can help to strengthen the legal system. Foreign investment rules, the investment climate, and the ability to secure necessary permits and approvals to do business will be addressed. The program in Hong Kong focuses on the legal framework and political future of the special administrative regime as it becomes part of the People's Republic of China in July, 1997. Meetings will be held with individuals responsible for future governance of Hong Kong. To apply for participation in the delegation, contact Edison W. Dick, Executive Director-ILEX, ABA, 1700 Pennsylvania Ave., N.W., Washington, D.C. 20006. Tel: 202/393-7122; Fax 202/347-9015.

MSU Center for Int'l Business

China Conference - Call for Papers June 25 - 28, 1997

The Montclair State University Center for International Business has made a call for papers for the upcoming conference in Beijing, International Business with China - Challenges & Opportunities. The broad list of suggested topics includes taxation, investment, technology transfer, joint ventures, intellectual property, distribution and marketing planning, cross cultural communication, China and the WTO, foreign trade, APEC, and more. For further information on attending the conference or submitting a research paper (initial 1-page proposal due January 10, 1997), contact Dr. Carl Rodriques, Dept. of Management, School of Business, MSU, Upper Montclair, NJ 07043. Tel: 201/655-7455; Fax: 201/655-7715; E-mail: rbll@qsilver.queensu.ca.

SWU School of Law

Mass Media and Censorship in the Americas - A Symposium Friday, January 24, 1997, 3:00 - 8:00 pm

Southwestern University School of Law's Journal of Law and Trade in the America, in cooperation with the State Bar of California International Law Section, will present a one-day symposium on Mass Media and Censorship in the Americas at the University in Los Angeles, California. The symposium has been developed to bring scholars and practitioners together to discuss issues involving mass media and censorship in the Americas. Media coverage of high profile cases, investigative reports on political corruption, and the public's insatiable desire for information have pitted the press against a legal system that strives to preserve individual rights. To learn more about the issues in this cutting-edge Americas symposium, contact: Ms. Jane Powell, Director of Student Affairs, Law Journal Media and Censorship Symposium, SWU School of Law, 675 S. Westmoreland Ave., Los Angeles, CA 90005-3992. Tel: 213/738-6716.

Inter-Pacific Bar Assn.

Annual Meeting - Kuala Lumpur April 28 - May 2, 1997

The IPBA's Seventh Annual Meeting and Conference will be held in Kuala Lumpur. The IPBA was formed at an organizational conference in Tokyo in 1991 attended by over 500 lawyers from throughout Asia and the Pacific and has since grown to over 2,000 members, becoming the pre-eminent legal organization in the region for business and commercial lawyers. The conference will feature an opening session entitled WTO and Its Implications for the Asia Pacific Region, with 26 programs with over 150 speakers from throughout the Pacific Rim. More than 600 lawyers are expected to attend this conference. For more information concerning the conference, contact the Kuala Lumpur Host Committee at P.O. Box 1038, 50704 Kuala Lumpur, Malaysia or fax to 60-3-238-5625.

Orange County Bar Assn.

Multinational Treaties and Other Legal Developments Affecting U.S. Trade with Latin America February 17, 1997, 12:00 - 1:30 pm

The International Law Section's bimonthly luncheon meeting will feature Rafael X. Zahralddin-Aravena, Esq., Assistant Professor of Law, Chapman University School of Law. The meeting will be held on at the Airport Hilton, 18800 Macarthur Blvd., Irvine, California (across from John Wayne Airport). For further information, contact Richard Schwarzstein, Chair OCBA ILS. Tel: 714/752-9152.

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